**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 259 OF 2006

IN

SUIT NO. 1556 OF 1996

Mrs. Priti Uday Desai
& Ors., .. Plaintiffs.

vs.

Savitribai Mahavirprasad
Kedia & Ors. .. Defendants.

Mr. V.J. Mehta i/by Divyakant Mehta & Asso.
for plaintiffs.
Mr. A.B. Palan i/by M.A. Purohit
for defendant no.3.

**CORAM : S.U.KAMDAR, J.**

**DATE : 1st February, 2006.**

P.C.

. Affidavit in reply is taken on record. Motion is made returnable forthwith.

1. The present motion is taken out to set aside the order by which the matter is kept for ex-parte decree for not filing the written statement. In the affidavit of service it has been mentioned that

written statement is already filed on 7.12.2005. The learned counsel appearing for defendant no. 3 states that if necessary on imposition of cost the written statement be taken on record and the same be heard on merits. In the aforesaid view of the matter, I am of the view that the written statement can be taken on record and the matter can be heard on merits. In that light of the matter, the motion is made absolute in terms of prayer clauses (a) and (b). Office is directed to take the written statement on record. However, the defendant no. 3 will pay cost quantified at Rs. 2000/- to the plaintiff herein. Motion disposed of accordingly.